

STATE OF MARYLAND

*

IN THE

CJ

VS.

*

CIRCUIT COURT

NICHOLAS WAYNE SUMMERS

*

FOR

*

FREDERICK COUNTY

*

CASE NO.: C-10-CR-23-000846

* * * * *

MOTION TO SUPPRESS IDENTIFICATION EVIDENCE AND TESTIMONY

COMES NOW Defendant, NICHOLAS WAYNE SUMMERS, by and through his attorneys, Leonard Gutkoska, Esq., and Maronick Law, LLC, and hereby moves this Honorable Court to suppress any and all testimony and evidence resulting from any of the following:

1. A pretrial confrontation at which the Defendant was not represented by counsel in violation of his/her right to counsel guaranteed by the Sixth and Fourth Amendments to the Constitution and by Article 21 of Maryland Declaration of Rights;
2. A pretrial confrontation which was so unnecessarily suggestive and conducive to an irreparable mistaken identification that the Defendant was denied due process of law guaranteed him/her by the Fifth and Fourteenth Amendments to the United States Constitution and Article 21 of the Maryland Declaration of Rights;
3. Observations by the witness at the scene of the alleged crime which occurred so long ago that to permit that witness to attempt an in-court identification of the Defendant would be to deny the Defendant due process of law guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and Article 26 of the Maryland Declaration of Rights;
4. An illegal detention, arrest, or search and seizure conducted in violation of the common law of Maryland, the Fourth and Fourteenth Amendments to the United States Constitution and Article 26 of the Maryland Declaration of Rights;
5. An involuntary or otherwise illegally obtained statement by the Defendant in violation of the common law of Maryland, due process of law guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and Article 22 of the Maryland Declaration of Rights, and the right to counsel guaranteed by the Sixth and Fourteenth

Amendments to the United States Constitution and Article 21 of the Maryland Declaration of rights;

6. Witnesses whose identities were not disclosed to the Defendant as required by Maryland Rule 4-262(d)(2)(B);

Defendant further moves this Honorable Court to suppress:

1. Any and all statements, admissions, and confessions which were obtained in violation of (a) the common law of Maryland; (b) due process of law guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States and by Article 21 of the Maryland Declaration of Rights; (c) the Defendant's right against self-incrimination guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States and by Article 22 of the Maryland Declaration of Rights; and, (d) the Defendant's right to counsel guaranteed by the Sixth and Fourteenth Amendments to the Constitution of the United States and by Article 21 of the Maryland Declaration of Rights;
2. Any and all statements, admissions, and confessions which resulted from an illegal arrest or search and seizure conducted in violation of the Common Law of Maryland, the Fourth and Fourteenth Amendments to the United States Constitution and Article 26 of the Maryland Declaration of Rights;
3. Any and all statements, admissions, and confessions which were obtained from an arrestee during a period of unnecessary delay in producing the Defendant before a judicial officer in violation of Maryland Rule 4-212, or obtained after such period and tainted by it;
4. Any and all statements, admissions, and confessions which were not disclosed, after request by the Defendant, as required by Maryland Rule 4-262(d)(2)(A);
5. Any and all statements, admissions, and confessions which were illegally obtained, but are offered by the State either to impeach on an issue which is first solicited from the Defendant on cross-examination or to impeach his/her general, rather than specific, credibility;

6. Any and all statements, admissions, and confessions which were made by co-defendant(s), for use in a joint trial where the co-defendant(s) do not testify, which implicate the Defendant and deprive him/her of his/her right to confrontation guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article 21 of the Maryland Declaration of Rights.

Defendant moves, finally, to suppress any and all other evidence and testimony which:

1. Results from an illegal arrest or search and seizure conducted in violation of the Common Law of Maryland, the Fourth and Fourteenth Amendments to the United States Constitution and Article 26 of the Maryland Declaration of Rights; and/or,
2. Results from an involuntary or otherwise illegally obtained statement by the Defendant in violation of the Common Law of Maryland, due process of law as guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States and by Article 22 of the Maryland Declaration of Rights, and the right to counsel guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article 21 of the Maryland Declaration of Rights.

Respectfully submitted,

/s/ Leonard Gutkoska

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that the foregoing was, on September 20, 2023, E-Filed and served on the State's Attorney for Frederick County.

CERTIFICATE OF UNRESTRICTED INFORMATION

I, the undersigned hereby certify that the foregoing document does not contain any restricted information.

/s/ Leonard Gutkoska
Leonard Gutkoska, Esq. (8501010251)